

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALAN MCMANN and DONNA
MCMANN, husband and wife,

Plaintiffs,

v.

AIR & LIQUID SYSTEMS
CORPORATION, et al.,

Defendants.

CASE NO. C14-5429 BHS

ORDER REQUESTING
ADDITIONAL BRIEFING

This matter comes before the Court on SB Decking, Inc.'s ("SB Decking") motions in limine (Dkt. 85).

On October 22, 2014, SB Decking filed a motion for summary judgment arguing that Washington law applied to Plaintiffs Alan and Donna McMann's ("McManns") asbestos exposure claim against SB Decking. Dkt. 65. Under a comparatively relaxed causation standard, the Court denied the motion because, viewing the evidence in the light most favorable to the McManns, there existed a question of fact regarding liability. Dkt. 80. On December 15, 2014, SB Decking filed motions in limine arguing in part that (1) maritime law applies to the McManns' claim against SB Decking and (2) the Court should exclude all circumstantial evidence related to SB Decking. Dkt. 85. SB Decking's motion in limine is essentially a motion for summary judgment because, if maritime law applies, then the McManns may have failed to submit sufficient evidence to

1 establish a question of fact and SB Decking may be entitled to summary judgment as a
2 matter of law.

3 Although the deadline for dispositive motions has passed, whether maritime law
4 applies is a question of law that must be decided. SB Decking bears the burden to show
5 that maritime law applies. *Cabasug v. Crane Co.*, 956 F. Supp. 2d 1178, 1181 (D. Haw.
6 2013).¹ The applicable test includes a location component and a connection component.
7 *Id.* at 1187. If maritime law applies, then a higher standard of causation applies to the
8 McManns' claims. *See Nelson v. Air & Liquid Sys. Corp.*, No. 14-0162, 2014 WL
9 6982476, at *10 (W.D. Wash. Dec. 9, 2014). Therefore, the Court requests additional
10 briefing on these issues.

11 SB Decking may file an opening brief no later than January 6, 2015. The
12 McManns may respond no later than January 13, 2015. SB Decking may reply no later
13 than January 15, 2014.

14 **IT IS SO ORDERED.**

15 Dated this 31st day of December, 2014.

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18 BENJAMIN H. SETTLE
19 United States District Judge
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21 ¹ It's interesting that, although Defendant Crane Company successfully showed that
22 maritime law applied to the claims in *Cabasug*, Crane Company argued that Washington law
applies to the McManns' claims. *See* Dkt. 63 at 5.